

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
COLUMBIA DIVISION**

KAREN MCNEIL, et al.,  
On behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

COMMUNITY PROBATION SERVICES, LLC,  
et al.,

Defendants.

Case No. 1:18-cv-00033  
Judge Campbell / Frensey

**PLAINTIFFS' MOTION TO DISMISS COUNTERCLAIM OF PSI DEFENDANTS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6) and Local Rule 7.01, Plaintiffs, by their undersigned counsel, hereby move to dismiss with prejudice the counterclaim brought by Defendants Progressive Sentencing, Inc., PSI-Probation II, LLC, PSI-Probation, L.L.C., Tennessee Correctional Services, LLC, Timothy Cook, Markeyta Bledsoe, and Harriet Thompson (collectively, the "PSI Defendants").

The PSI Defendants' counterclaim seeks an award of attorneys' fees and costs pursuant to 42 U.S.C § 1988 "if they are ultimately determined to be the prevailing party in this action." (Doc. 60, ¶ 641.) As more fully discussed in their contemporaneously filed Memorandum of Law in support of this Motion, the PSI Defendants' counterclaim must be dismissed because: (a) the counterclaim is a premature and improper mechanism to seek attorneys' fees, pursuant to Federal Rule of Civil Procedure 54(d)(2) and Local Rule 54.01(b); and (b) the counterclaim fails to state a cause of action where it is well established that 42 U.S.C § 1988 does not create an independent federal cause of action.

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order dismissing the PSI Defendants' counterclaim with prejudice.

Dated: August 27, 2018

Respectfully Submitted,

s/ David W. Garrison

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**CERTIFICATE OF SERVICE**

I certify that on August 27, 2018, I electronically filed the foregoing Plaintiffs' Motion to Dismiss Counterclaim of PSI Defendants using the CM-ECF System, which caused notice to be sent to all counsel of record who are registered with the CM/ECF system, including the following Counsel for Defendants:

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